THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.1242 of 2000

Dated: 26.12.2005

Between:

R.S. Reddy, E.201111, Conductor, S/o R. Narsimha Reddy, resident of Wanaparthy, Mahaboobnagar District.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Wanaparthy Depot, Mahaboobnagar District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.1242 of 2000

Order:

By this writ petition, the petitioner seeks a Mandamus declaring the suspension order and charge sheet No.P1/25(5)/99-WNP, dated 10.09.1999 issued by respondent No.1 as illegal and arbitrary.

The case of the petitioner is that based on the report of the checking officials, the Sub-Inspector of police, Peddamandadi P.S., registered a case against him in Crime No.41 of 1999 and filed a charge sheet on the file of the Judicial Magistrate of First Class, Wanaparthy under Section 332 IPC. Pursuant to that, respondent No.1 also

charge sheeted/suspended the petitioner vide proceedings No.P1/25(5)/99-WNP, dated 10.09.1999, for which he has submitted his explanation on 03.12.1999, and not being satisfied with his explanation, respondent No.1 referred the matter to respondent No.2 for conducting a detailed enquiry. The grievance of the petitioner is that the charges in the departmental proceedings as well as in the criminal proceedings are one and the same, and therefore, the criminal proceedings are likely to be prejudicially affected by the parallel departmental enquiry if the same is allowed to be continued. Hence, the writ petition.

A counter affidavit is filed by the respondent-Corporation stating that the checking officials, by name K.N. Goud, E.26246, TTI RES/MBNR and M. Govardhan, E.43223, TI.III of GDL Depot vide their report dated 02.09.1999 and 03.09.1999 reported that on 02.09.1999 they stopped the bus AP 9Z-6223 operating on the route Wanaparthy – Chinnamandadi at stage No.2/3 and entered into the bus to check the tickets of the passengers, but the petitioner did not allow them to check the tickets of the passengers and picked up a quarrel with them and assaulted K.N. Goud and abused him in filthy language. Hence, the said checking officials lodged a complaint at Peddamandadi Police Station against the petitioner, which was registered in Crime No.41 of 1999. Later, the petitioner went away in the middle of the service and has remitted the bus cash on 03.09.1999 instead 02.09.1999. Basing on the above serious lapses on the part of the petitioner, he was kept under suspension and a charge sheet was issued to him vide proceedings dated 10.09.1999 calling upon him to submit his explanation to the charges leveled against him. The petitioner, having received the said suspension order and charge sheet, submitted his explanation on 03.12.1999 and the same was forwarded to the Chief Inspector (Enquiries), Mahabubnagar. Since the charges in the disciplinary proceedings and the criminal case are different, the departmental enquiry has nothing to do with the trial in a criminal case.

Heard the learned counsel for the petitioner and learned Standing Counsel for the respondent-Corporation.

The main contention of the petitioner in this writ petition is that as criminal case is pending against him, the parallel departmental enquiry is not allowed to be continued, which would cause prejudice to the criminal proceedings. The same

cannot be accepted inasmuch as the Apex Court in ***LALIT POPLI Vs. CANARA BANK AND OTHERS*** held that the Criminal and Departmental proceedings are entirely different and the standard of proof, the mode of enquiry and the rules governing the enquiry and trial are conceptually different. The relevant paragraph reads as under:

> "It is fairly well settled that the approach and objective in criminal proceedings and the disciplinary proceedings are altogether distinct and different. In the disciplinary proceedings the preliminary question is whether the employee is guilty of such conduct as would merit action against him, whereas in criminal proceedings the question is whether the offences registered against him are established and if established what sentence should be imposed upon him. The standard of proof, the mode of enquiry and the rules governing the enquiry and trial are conceptually different. (See ***State of Rajasthan Vs. B.K. Meena***) In case of disciplinary enquiry the technical rules of evidence have no application. The doctrine of "proof beyond doubt" has no application. Preponderance of probabilities and some material on record are necessary to arrive at the conclusion whether or not the delinquent has committed misconduct."

Further, the Apex Court in ***AJIT KUMAR NAG Vs. GENERAL MANAGER (PJ), INDIAN OIL CORPN. LTD*****,** held that the two proceedings, criminal and departmental, are entirely different and they operate in different fields and have different objectives. The relevant portion reads as under;

> "…….The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives. Whereas the object of criminal trial is to inflict appropriate punishment on the offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service rules. In a criminal trial, incriminating statement made by the accused in certain circumstances or before certain officers is totally inadmissible in evidence. Such strict rules of evidence and procedure would not apply to departmental proceedings. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused "beyond reasonable doubt", he cannot be convicted by a court of law. In a departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of "preponderance of probability"……"

In view of the above settled position of law, pendency of criminal case is not a bar to conduct a departmental enquiry. The writ petition is devoid of merits and the

same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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N.V. RAMANA, J.

Date: 26.12.2005

Tvk/Nsr